IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Crl.MC.No. 4458 of 2003()

CC.110/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, KANNUR

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PETITIONER(S):

P.NASEER, S/O.MAMMU,
AMEEN BAG, KOYA BAZAR,
KOZHIKODE DIST.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT(S):

THE CBCID TRIVANDRUM,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

PUBLIC PROSECUTOR C.M.KAMMAPPU.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.HEMA, J.

Crl.M.C.NO.4458 of 2003

Dated this the 21st day of August, 2007

O R D E R

The petitioner is an accused in a case on the file of the Magistrate's Court. The petitioner was absent and he could not participate in the trial, since it is alleged that he was employed abroad. Therefore, the case against the petitioner was split up and renumbered. But, the co-accused was acquitted as per the judgment dated 23.2.2001 in C.C.No.572 of 1997. The alleged offences are under Sections 468 and 34 of the Indian Penal Code.

2. According to learned counsel for petitioner, the charge against the petitioner will not lie, in the light of the findings in the judgment dated 23.2.2001 in C.C.No.372 of 1997. Even if the case is proceeded with, no useful purpose will be served. The learned Public Prosecutor submitted that in the light of the dictum laid down in the Full Bench decision of this Court reported **Moosa v. S.I. Of Police** (2006(1) KLT 552) the contentions raised are not sustainable. I am satisfied with the submissions made and I do not find any ground to interfere and quash the proceedings.

3. However, learned counsel for petitioner submitted that he may be permitted to seek for a discharge before the trial court. It is needless to say that dismissal of this petition filed under Section 482 Cr.P.C will not in any way interfere with the right of the petitioner in seeking any of his remedies as per the law before the trial court.

With this observation, this petition is dismissed.

K.HEMA, JUDGE

vgs.